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U.S. COURTS

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Of Attorneys for FORD MOTOR CREDIT COMPANY

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO, AT TWIN FALLS**

In re:

**LYNN KETTERLING dba
KETTERLING FARMS and
JEANNE KETTERLING,**

Debtor.

CHAPTER 12

NO. 03-41318

**MOTION FOR RELIEF FROM STAY PURSUANT
TO TITLE 11 USC § 362(d)(1),(2); FRBP 4001(a);
LBR 4001.2; REQUEST FOR ADEQUATE
PROTECTION PURSUANT TO §§363(e), 361(1);
AND WAIVER UNDER FRBP 4001**

**FILING FEE PAID
RECEIPT # 2374 P**

COMES NOW FORD MOTOR CREDIT COMPANY ("FMCC"), by and through its counsel RICHARD J. HAYDEN and RICHARD J. HAYDEN, P.S., and respectfully moves the court for an order relieving the automatic stay pursuant to Title 11 USC §362(d)(1),(2).

Further, the moving party requests that it be provided adequate protection for its security claim. FMCC has a secured claim in the real property of the debtor at state law. The moving party requests that it have adequate protection in the form of immediate cash payments equivalent to all arrearages now due and owing.

The grounds for the present motion are Title 11 USC §§ 362(d)(1) and (2), 363(3), and 361(1), and FRBP 4001; pursuant to FRBP 4001, FMCC specifically alleges:

- (1) It holds a perfected security interest under Article 9 of the Uniform Commercial Code in a 1999 FORD EXPEDITION, VIN #1FMPU18L3XLC47394;
- (2) That there are no prior claims or encumbrances against the property except for the lien interest held by FMCC;
- (3) The debtor shows no indication of paying the debt;
- (4) The debtor has not provided adequate protection to FMCC of its interest in the debtor's property and the value of the moving party's secured claim is substantially deteriorating;

MOTION FOR RELIEF FROM STAY - 1

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A Professional Service Corporation

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(5) The moving party is entitled to relief for cause for lack of payment and proof of insurance;

(6) The collateral of the moving party is not necessary to an effective reorganization;

(7) The moving party has suffered substantial damage due to the depreciation in the value of its collateral from the time of petition filing;

(8) The debtor is \$555.70 delinquent at state law.

(9) The value of this collateral varies upon market conditions, location, physical condition, and other factors beyond movant's control. Thus, FMCC cannot adopt a current valuation for this collateral, but the relevant trade book shows a value of \$16,825.00. The debtor owes \$8,546.39.

MOTION FOR RELIEF OF THE STAY OR ADEQUATE PROTECTION

The basis for the present motion is that the debtor has not provided adequate protection to FMCC of its interest in the above property; the claim of the moving party equals the value of the collateral secured, and the collateral of the moving party is not necessary to effective reorganization. Also, the moving party asserts that it is not adequately protected and should have relief for cause. The moving party further asserts that its collateral has continued to depreciate since petition filing, and without relief of the stay or the adequate protection, which is sought in the present motion, it will suffer substantial damage.

MOTION FOR ORDER EFFECTIVE UPON ENTRY

FMCC asserts that based on this motion it is entitled to an order which is effective upon entry. FMCC asks that the court "order otherwise" pursuant to FRBP 4001 and deem the ten-day stay of effectiveness waived.

WHEREFORE, the moving party respectfully requests that:

- (1) It be granted relief of the stay in order to foreclose and liquidate its collateral;
- (2) In the alternative, FMCC receive cash payments in an amount which would satisfy all arrearages due and owing as of the date of this motion;
- (3) Any order granting relief requested be effective upon entry.
- (4) For such other and further relief the Court deems just and equitable.

DATED this 5th day of August, 2003.

RICHARD J. HAYDEN, P.S.
A Professional Service Corp.

By: 

RICHARD J. HAYDEN
Attorney for FMCC
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY under penalty of perjury that on the 5th day of August, 2003, I served a true and correct copy of the MOTION FOR RELIEF FROM STAY, *via facsimile and/or U.S. Mail*, upon D BLAIR CLARK, P.O. BOX 2773, BOISE, ID 83701-2773, and FORREST P HYMAS, TRUSTEE, P.O. BOX 89, JEROME, ID 83338. I mailed the same to LYNN KETTERLING DBA KETTERLING FARMS AND JEANNE KETTERLING, 100 N. 160 W., RUPERT, ID 83350.



RYAN A. HAYDEN

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